

CHAPTER 7: REVIEW AND APPROVAL PROCEDURES

10.7.1 SUMMARY AND ORGANIZATION OF THIS CHAPTER

- A. This Chapter describes the procedures for review and approval of all applications for development activity in the Town. Common procedures, which are applicable to all or most types of development applications, are in Section 10-7-2. Subsequent Sections set forth additional provisions that are unique to each type of application, including staff and review board assignments, review standards, and other information.
- B. Table 7.1-1 sets forth the review and decision-making responsibilities for the administration of the procedures described in this Chapter.

TABLE 7.1-1: SUMMARY OF ADMINISTRATION AND REVIEW ROLES

NOTE: This table summarizes the general review and decision-making responsibilities for the procedures contained in Chapter 7.

R = Review (Responsible for Review or Recommendation)

H = Hearing (Public Hearing Required)

D = Decision (Responsible for Final Decision)

Procedure	Section	Pre-App Conf?	Neighborhood Meeting?	Decision-Making Body					Notice Required		
				Board of Trustees	Planning Comm.	Board of Adj.	Town Staff	Referral Agencies/Consultants	Mailed	Published	Posted
Annexation	7.3	Yes		D-H			R	R		X	X
Architectural Review	7.12						D				
Building Permits	7.13						D				
Development Agreement	7.15			D			R				
Fence Permit	6.4.H						D				
Floodplain Permit	2.7.C						D				
Improvement Guarantees	7.17						D				
Initial Zoning	7.4	Yes		D-H			R	R	X	X	X
Planned Development Zoning	7.19	Yes	Yes	D-H	R-H		R	R	X	X	X
PUD Plan Amendment: Administrative Review	7.6	Yes					D	R			
PUD Plan Amendment: PC/BOT Review	7.6	Yes	Yes	D-H	R-H		R	R	X	X	X
Rezoning	7.5	Yes	Yes	D-H	R-H		R	R	X	X	X
Sign Permit	6.12						D				
Site Plan: Administrative Review	7.10.E	Yes					D	R			

Site Plan: Planning Commission Review	7.10.F	Yes	Yes		D-H		R	R	X	X	X
Site Plan Agreement	7.16			D			R				
Special Review Use	7.11	Yes	Yes	D-H	R-H		R	R	X	X	X
Subdivision: Annexation Subdivision	7.7.G	Yes					D				
Subdivision: Sketch Plan	7.7.C	Yes					R				
Subdivision: Preliminary Plat	7.7.D		Yes	D-H	R-H		R	R	X	X	X
Subdivision: Final Plat	7.7.E	Yes					D	R			
Subdivision: Minor Subdivision	7.7.F	Yes					D	R			
Temporary Use Permit	7.14						D	R			
Variance	7.9	Yes				D-H	R	R	X	X	X

10.7.2 STANDARD DEVELOPMENT REVIEW PROCEDURES

The standard development review procedures in this Section shall apply to all types of development applications under this Title, unless otherwise expressly stated.

A. Step 1: Pre-Application Conference

1. Purpose

The purpose of a Pre-Application conference is to provide an opportunity for an informal evaluation of the applicant's proposal and to familiarize the applicant with the applicable provisions of this UDC, the Town's Comprehensive Plan, the Town's Parks, Recreation, Open Space and Trails Master Plan and the Town's Standards and Specifications for Design and Construction of Public Improvements, infrastructure requirements, the UDC User's Guide, and any other issues that may affect the applicant's proposal.

2. Content

The Town shall schedule a Pre-Application conference after receipt of a proper request. At the conference, the applicant and Town staff shall discuss the proposed development. Based upon the information provided by the applicant and the provisions of this UDC, the parties shall discuss in general the proposed development and the applicable requirements and standards of this UDC.

3. Maximum Number

The applicant shall request a maximum of two Pre-Application conferences prior to a formal submittal.

4. Application Required Within 6 Months

After a Pre-Application conference has been held, an application must be submitted within 6 months or sooner if required by the Director due to changing conditions. If an application is not filed within such timeframe, a new Pre-Application conference shall be required prior to filing an application, unless waived by the Director.

B. Step 2: Application Submittal

1. User's Guide

The Director shall compile the current requirements for application contents, forms, fees, and the submission materials and review schedule in a User's Guide, which shall be made available to the public.

2. Consolidated Development Applications and Review

Multiple development applications for the same development proposal may be consolidated for submittal and review, as determined by the Director. Annexation, Annexation Plat, and Initial Zoning Applications cannot be consolidated with Subdivision and Site Plan applications. Site Plan Applications may be submitted and processed concurrently with Final Plat applications, but a Site Plan application may only be approved after the Final Plat is approved.

3. Authority to File Applications

a. Unless otherwise specified in this UDC, applications for review and approval may be initiated by:

- i. The owner of the property that is the subject of the application; or
- ii. The owner's authorized agent; or
- iii. The Board of Trustees; or
- iv. Other entities that have rights provided by law.

b. When an authorized agent files an application on behalf of a property owner, the agent shall provide the Town with written documentation that the owner of the

property has authorized the filing of the application.

4. Fees

a. *Recovery of Costs*

The applicant shall pay all costs incurred by the Town for review of an application, including attorney fees, review fees from consultants acting as staff or other fees.

b. *Fee Schedule*

The amount of the Town's development review fees shall be established by the Board of Trustees, and shall be based on the actual expenses incurred by or on behalf of the Town. The schedule of fees is noted in Title 2 of the Municipal Code and on the Land Use Application.

c. *Outstanding Fees and Costs*

All fees and costs shall be paid by the applicant prior to scheduling of hearings or meetings for any development application. No new applications shall be accepted by the Town until all previous fees and costs associated with an applicant, application or property are paid in full.

5. Inactive Files

If an applicant fails to submit required information for a period of more than 6 months from the initial filing of the application, the application shall become void and a new application and fees shall be required.

C. Step 3: Determination of Application Completeness

After receipt of the development application, the Director shall determine whether the application is complete.

1. If the application is determined to be complete, the application shall then be processed according to the procedures set forth in this UDC. An application shall be considered complete if it is submitted in the required form, includes all mandatory information and supporting materials specified in the User's Guide, and is accompanied by the applicable fees.
2. If an application is determined to be incomplete, the Director shall provide notice to the applicant along with an explanation of the application's deficiencies. Further processing of an incomplete application shall not occur until the deficiencies are corrected in a future re-submittal.
3. If any false or misleading information is submitted or supplied by an applicant on an application, that application will be deemed incomplete.

D. Step 4: Neighborhood Meeting

1. Purpose

The purpose of a neighborhood meeting is to provide an informal opportunity to inform the residents and landowners of the surrounding neighborhood(s) of the details of a proposed development and application, how the applicant intends to meet the standards contained in this UDC, and to receive public comment and encourage dialogue at an early time in the review process.

2. Applicability

A neighborhood meeting shall be required for any development proposal that will be subject to Planning Commission review, unless otherwise indicated in this Chapter. The neighborhood meeting shall take place within six (6) months of the first required hearing date, and if more than six (6) months elapse, a second neighborhood meeting shall be held which meets this requirement.

3. Notice

The applicant shall give mailed and posted notice of the neighborhood meeting to property owners, pursuant to the general notice provisions of Section 10-7-2.F. The applicant shall submit an affidavit to the Town stating that the notice requirement has been met.

4. Attendance

If a neighborhood meeting is required, the applicant or applicant's representative shall attend and facilitate the meeting. The applicant shall be responsible for scheduling the meeting, coordinating the meeting, and for retaining an independent facilitator if needed.

5. Summary

The applicant shall prepare a written summary of the neighborhood meeting including a list of participants and a copy of the mailed notice. The written summary shall be provided to Town staff.

E. Step 5: Application Referral, Review and Staff Report

After determining that a development application is complete, the Town shall process the development application in the following manner.

1. Referral Packets

The Town shall notify the applicant of the submittal information required for distribution to referral agencies.

2. Referral Review

Referral agencies shall provide comments to the Town within 21 working days of receiving a complete submittal unless the applicant agrees to an extension of no more than 30 days. The applicant is required to pay fees assessed by referral agencies.

3. Resolution of Issues

The Town shall compile and review all referral comments and provide a copy of all comments to the applicant. The applicant shall resolve outstanding issues to the maximum extent reasonably practicable. The applicant shall provide the Town with a written summary of how all outstanding referral and Town comment issues have been resolved. Documentation from the referral agency that the issue has been resolved shall also be submitted to the Town. At the discretion of the Director, referral comments requiring significant changes to a development application, plan or proposal may require re-referral to any and all referral agencies.

4. Staff Report

After the application has been scheduled for a public hearing, staff shall prepare a Staff Report. The Staff Report shall indicate whether the development application complies with all applicable standards of this UDC, and may recommend approval, denial or conditions for approval may also be recommended to eliminate any areas of non-compliance or mitigate any adverse effects of the development proposal. The Staff Report shall be made available to the applicant and the public prior to the scheduled public hearing.

F. Step 6: Notice

1. Content of Notices

Notice of all public hearings required under this Chapter shall, unless otherwise specified in this UDC: (1) identify the date, time, and place of the public hearing, (2) describe the property involved in the application by street address or by legal description and nearest cross street; (3) describe the nature, scope, and purpose of the proposed action; (4) indicate that interested parties may appear at the hearing and be heard; and (5) indicate where additional information on the matter may be obtained.

2. Summary of Notice Requirements

Table 7.1-1 summarizes the notice requirements of the procedures set forth in this Chapter.

3. Published Notice

When Table 7.1-1 requires that notice be published, the Director shall cause a notice to be published in a newspaper having general circulation in the area. The notice shall be published at least 15 days prior to the hearing date.

4. Mailed Notice

When mailed notice is required, the applicant shall provide the Director with a current (prepared within 30 days of the scheduled hearing) list of names and addresses listed below. The applicant shall mail such notice via the United States Postal Service using first class mail at least 15 days prior to the scheduled date of the hearing. The applicant shall submit an affidavit to the Town stating that the notice requirement has been met.

- a. All persons listed on the records of the County Assessor as owners of land subject to the application or as owners of the parcels of the land subject to the application and owners within 500 feet of the outer boundary of the land subject to the application.
- b. All homeowners' associations, business associations, metropolitan districts, and similar entities of the land subject to the application and within 500 feet of the outer boundary.

5. Posted Notice

- a. When posted notice is required, the applicant shall cause a notice to be posted on the property for at least 15 days before the scheduled hearing date.
- b. Notice shall be posted along the public street rights-of-ways bordering the property, or as otherwise approved by the Director.
- c. Posted notices shall include all the content specified in Subsection 7.2.F.1 above except for the legal description.
- d. Before the public hearing, the applicant shall submit to the Planning and Development Department a notarized affidavit, signed by the person who did the posting or the person who caused the posting to be done, that notice was posted and maintained as required by this Subsection.
- e. The applicant is responsible for ensuring that the posted notices remain in place, in legible condition until the public hearing is concluded, and for removal of the posted notices within 2 days after the public hearing is concluded.

6. Mineral Owner Notice

All development applicants shall comply with the notice requirements contained in C.R.S. § 24-65.5-103.

G. Step 7: Public Hearing

Each public hearing shall be conducted as follows:

1. Rights of All Persons

Any person may appear at a public hearing and submit evidence, either individually or as a representative of a person or an organization. Each person who appears at a public hearing shall state their name and place of residence and, if appearing on behalf of a person or organization, the name and place of residence of the person or organization being represented.

2. Exclusion of Testimony

Testimony or evidence that is irrelevant, immaterial, or unduly repetitious may be excluded.

3. Continuance

The public hearing may be continued to a fixed date, time and place.

4. Order of Proceedings

The order of the proceedings at each public hearing shall be as follows:

a. Opening of Public Hearing

The public hearing shall be formally opened by the Town body conducting the public hearing.

b. Staff Report

First, the Director or designee shall present a summary of the development application including an introduction of the Staff Report.

c. Applicant Presentation

The applicant shall present any relevant information the applicant deems appropriate. Copies of all writings or other exhibits that the applicant wishes to be considered shall be submitted to the Town before the public hearing.

d. Public Testimony

The public shall be provided an opportunity to present testimony, with time limits to be determined by the body conducting the public hearing, not to be less than three (3) minutes. Pooling of time shall be allowed.

e. Applicant Response

The applicant may respond to any testimony or evidence presented by the public.

f. Staff Response

The Director, the Town Attorney, and any other Town staff member may respond to any statement made or evidence presented by the applicant or the public.

g. Close of Hearing/Deliberation

After the public hearing is closed, the body conducting the public hearing shall deliberate the merits of the application, considering the applicable review criteria, in public.

H. Step 8: Decision and Findings

1. Decision

Following deliberation, the body conducting the hearing shall approve, approve with conditions, or deny the application based on its compliance with the applicable approval criteria, as described in Step 9 of the Common Development Review Procedures.

2. Findings

All decisions shall include a clear statement of approval, approval with conditions, or denial, whichever is appropriate.

3. Record of Proceedings

a. Recording

Each public hearing shall be recorded. A copy of the public hearing record may be acquired by any person upon application to the Town Clerk, and payment of a fee to cover the cost of duplication of the record. The Director shall have the discretionary authority to require the presence of a court reporter at any public hearing and to assess the cost of such reporter to the applicant.

b. Record

For purposes of judicial review or appeal, the record shall consist of the following:

- i.** All exhibits, including, without limitation, all writings, drawings, maps, charts, graphs, photographs and other tangible items entered into the record by the decision maker at the proceedings;
- ii.** All minutes of the proceedings; and
- iii.** a verbatim transcript of the proceedings.

I. Step 9: Approval Criteria

To be approved, a development application must satisfy all approval criteria required for the applicable development application.

J. Step 10: Amendments

1. Minor Amendments

Minor Amendments to any form of approval issued under this Chapter may be approved, approved with conditions, or denied administratively by the Director and may be authorized without additional public hearings. Such Minor Amendments may be authorized by the Director as long as the development approval, as so amended, continues to comply with the standards of this UDC, at least to the extent of its original compliance (so as to preclude any greater deviation from the standards of this UDC by reason of such amendments). Minor Amendments shall only consist of any or all of the following:

- a.** Any change to any form of approval issued under this Chapter that was originally subject only to administrative review and was approved by the Director, provided such change would not have disqualified the original plan from administrative review had it been requested at that time; and provided that:
 - i.** The Minor Amendment results in an increase or decrease by 1 percent or less in the approved number of dwelling units; or
 - ii.** The Minor Amendment results in an increase or decrease in the amount of square footage of a non-residential land use or structure that does not change the character of the project; or
 - iii.** The Minor Amendment results in a change in the housing mix or use mix ratio that complies with the requirements of the zoning district and does not change the character of the project; or
 - iv.** The Minor Amendment does not result in a change in the character of the development.
- b.** Any change to any form of approval issued under this Chapter that was originally subject to review by the Planning Commission and was approved by the Planning Commission, provided that:
 - i.** The Minor Amendment results in an increase or decrease by 1 percent or less in the approved number of dwelling units; or
 - ii.** The Minor Amendment results in an increase or decrease in the amount of square footage of a non-residential land use or structure that does not change the character of the project; or
 - iii.** The Minor Amendment results in a change in the housing mix or use mix ratio that complies with the requirements of the zoning district and does not change the character of the project; or
 - iv.** The Minor Amendment does not result in a change in the character of the development.
- c.** The Director may refer any amendment to the Planning Commission and, if so referred, the decision of the Planning Commission shall constitute a final decision, subject only to appeal as provided for in Section 7.18.

2. Major Amendments

Amendments to any approval that are not determined by the Director to be Minor Amendments under the criteria set forth in Subsection 7.2.J.1 above, shall be deemed Major Amendments. Major Amendments to approvals under this UDC shall be reviewed and processed in the same manner as required for the original application for which amendment

is sought. Any Major Amendments shall be recorded as amendments in accordance with the procedures established for the filing and recording of such initial approvals.

10.7.3 ANNEXATIONS

A. Purpose

This Section provides the procedure by which land shall be brought into the municipal limits and jurisdiction of the Town.

B. Procedure

All annexations shall be governed by the Municipal Annexation Act of 1965, C.R.S. § 31-12-101, *et seq.*

10.7.4 INITIAL ZONING

A. Purpose

The boundaries of zone districts and the zone classification of a parcel of land shall be identified at the time a property annexes into the Town of Erie, pursuant to this Section.

B. Procedure

See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

1. Step 9 (Approval Criteria)

Applicable, as follows: The Board of Trustees may approve Initial Zonings if the Initial Zoning meets all of the following criteria:

- a. The Initial Zoning will promote the public health, safety, and general welfare;
- b. The Initial Zoning is generally consistent with the Town's Comprehensive Plan and the purposes of this UDC;
- c. The Initial Zoning is generally consistent with the stated purpose of the proposed zoning district;
- d. Adequate facilities and services (including streets and transportation, water, gas, electric, police and fire protection, and sewage and waste disposal, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;
- e. The Initial Zoning is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;
- f. The Initial Zoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject property;
- g. Future uses on the subject tract will be compatible in scale with uses on the other properties in the vicinity of the subject property; and
- h. The Initial Zoning is generally consistent with the Town's economic development goals and objectives in bring positive growth and sustainable revenues to the Town.

10.7.5 REZONING

A. Purpose

The boundaries of any zone district may be changed, or the zone classification of any parcel of land may be changed, pursuant to this Section. The purpose is to make adjustments to the official zoning map that are necessary in light of changed conditions or changes in public policy, or that are necessary to advance the general welfare of the Town. Rezoning shall not be used to relieve particular hardships, or to convey special privileges on any person or organization.

B. Procedure

See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

1. Step 6 (Notice)

Applicable, as follows:

Published, mailed, and posted notice of Public Hearings on Rezonings shall be provided. In addition, the notice shall list the protest provisions set forth in Subsection 7.5.B.8.c below. Where the Rezoning has been initiated by someone other than the property owner or their designated agent, the Director also shall mail a notice to all owners of the property to be reclassified, as shown in the current County Assessor's records.

2. Step 8 (Decision and Findings)

Applicable. The following additional procedures shall apply:

a. *Review and Recommendation by Planning Commission*

The Planning Commission shall hold a Public Hearing on the proposed Rezoning and shall recommend that the Board of Trustees approve or deny the Rezoning.

b. *Action by Board of Trustees*

The Board of Trustees shall hold a Public Hearing on the proposed Rezoning and approve the Rezoning by ordinance or deny the Rezoning.

c. *Protests*

Protests shall be governed by C.R.S. § 31-23-305.

d. *Successive Applications*

Following denial of a Rezoning request, no new application for the same or substantially the same Rezoning shall be accepted within 1 year of the date of denial.

3. Step 9 (Approval Criteria)

Applicable, as follows:

- a. The Rezoning will promote the public health, safety, and general welfare;
- b. The Rezoning is generally consistent with the Town's Comprehensive Plan and the purposes of this UDC;
- c. Adequate facilities and services (including streets and transportation, water, gas, electric, police and fire protection, and sewage and waste disposal, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;
- d. The Rezoning is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;

- e. The Rezoning is not likely to result in significant adverse impacts upon other property in the vicinity of the subject property;
- f. Future uses on the subject property will be compatible in scale with uses on other properties in the vicinity of the subject property; and
- g. The Rezoning is generally consistent with the Town's economic development goals and objectives in bring positive growth and sustainable revenues to the Town.

10.7.6 PLANNED UNIT DEVELOPMENT: DEVELOPMENT PLAN AMENDMENTS

A. Purpose

This Section provides a procedure to amend an approved Planned Unit Development ("PUD") development plan within an existing PUD overlay district. PUD amendment applications are not permitted for property that does not have an approved PUD.

B. Amendments

1. Approval of an amendment to a PUD development plan is required prior to development in a PUD overlay district. A PUD development plan amendment may be submitted concurrently with a subdivision application. Amendment of a PUD development plan is subject to recommendation by the Planning Commission and approval by the Board of Trustees.
2. A major amendment of an approved PUD development plan shall require the filing of new application for a PUD development plan, subject to the major PUD development plan amendment procedure in Section 7.6.D below.
3. The procedure in Section 7.6 D. below is not applicable if the Director determines that the requested changes are a Minor Amendment per Section 10.7.2.K.

C. Coordination with Subdivision Review

1. It is the intent of this UDC that subdivision review required under Section 7.7 may be carried out concurrently with the review of PUD development plans under this Section
2. If any provisions of this Section or the PUD standards of Subsection 2.7.E.2 conflict with the subdivision standards of this UDC, the more restrictive or detailed requirements shall be met, unless specifically altered through the Minor Modification process.

D. Procedure

See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

1. Step 8 (Decision and Findings)

Applicable. The following additional procedures shall apply:

- a. **Planning Commission**
The Planning Commission shall hold a public hearing on the PUD development plan amendment. The Commission shall recommend that the Board of Trustees approve the plan amendment as submitted, approve the plan amendment with modifications, or deny the plan amendment. The Director shall forward the recommendation to the Board of Trustees.
- b. **Board of Trustees**
The Board of Trustees shall hold a public hearing on the PUD development plan amendment and, at the close of the hearing, may by ordinance, approve, approve with modifications, or deny the PUD development plan amendment.

- c. Recording**
Following approval of the PUD development plan amendment, the Town shall record the amended PUD development plan in the office of the appropriate County Clerk and Recorder. The developer shall be responsible for all required recording fees.
- d. Successive Applications**
Following denial of a PUD development plan amendment request, no new application for the same or substantially the same PUD development plan amendment shall be accepted within 1 year of the date of denial.

2. Step 9 (Approval Criteria)

Applicable, as follows: The Board of Trustees may approve a PUD development plan amendment and the Planning Commission may recommend approval, if the PUD development plan amendment meets all of the following criteria:

- a.** The PUD development plan amendment is generally consistent with the purpose of the PUD overlay district in Subsection 2.7.E.1;
- b.** The PUD development plan amendment will promote the public health, safety, and general welfare;
- c.** The PUD development plan amendment is generally consistent with the Town's Comprehensive Plan and the purposes of this UDC;
- d.** The PUD development plan amendment is generally consistent with the PUD standards in Subsection 2.7.E.2;
- e.** Adequate facilities and services (including streets and transportation, water, gas, electric, police and fire protection, and sewage and waste disposal, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;
- f.** The PUD development plan amendment is not likely to result in significant adverse impacts upon the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated;
- g.** The PUD development plan amendment is not likely to result in significant adverse impacts to significant scenic and historic features as identified in plans adopted by the Town;
- h.** The PUD development plan amendment is not likely to result in significant adverse impacts upon other property in the vicinity of the subject property;
- i.** Proposed uses on the subject property will be compatible in scale with uses on other properties in the vicinity of the subject property;
- j.** The proposed phasing of the development is appropriate and the development can be substantially completed within the time period specified in the schedule of development or Development Agreement submitted by the applicant; and
- k.** The PUD development plan amendment provides public benefit(s).

10.7.7 SUBDIVISION

A. Purpose

The purpose of the subdivision review process is to ensure compliance with the subdivision standards and requirements set forth in Chapter 10-6, while encouraging quality development generally consistent with the goals, policies, and objectives found in the Town's Comprehensive Plan.

B. Applicability

1. General

The procedures of this Section, and the standards and requirements set forth in Chapter 6, shall apply to all subdivisions or re-subdivisions that result in the portioning, dividing, combining, or altering of any lot, parcel, or tract of land, including subdivisions or re-subdivisions created by an exercise of the power of eminent domain by an agency of the State or Town, unless specifically excluded by State law.

2. Subdivision Approval is Prerequisite to Other Approvals

a. No building permit or Certificate of Occupancy may be issued for any building, structure, or improvement located within a subdivision, and no plat for a subdivision may be recorded, until either:

i. All required improvements have been installed in accordance with the procedures and requirements of this Section; or

ii. A Development Agreement has been executed that provides for future improvements pursuant to Section 7.15.

b. The Town shall not accept or maintain any street and shall not extend or connect any street lighting, water service, or sanitary sewer service to any subdivision of land, until and unless a plat for the subdivision has been approved and recorded in accordance with the requirements set forth in this Section.

3. Restriction on Sale or Transfer of Subdivided Land Without Approved Plat

It is unlawful for any person to transfer or sell any land within the Town by reference to a plat that has not been approved by the Town and recorded by the appropriate County. The Town also may enjoin such transfer or sale by filing an action for an injunction.

C. Procedure for Review of Sketch Plans

See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

D. Procedure for Review of Preliminary Plats

See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

1. Step 8 (Decision and Findings)

The following procedures shall apply:

a. Public Hearing and Recommendation by Planning Commission

i. The Planning Commission shall hold a public hearing on the Preliminary Plat.

ii. At the public hearing, the Planning Commission shall consider Staff recommendations and any comments received from the referral agencies, public comments, and based on the applicable approval criteria below, recommend that the Board approve, conditionally approve, or deny the application. The Planning Commission shall have the authority to recommend changes in the Preliminary Plat which more fully meet the purposes of this UDC.

b. Review and Decision by Board of Trustees

The Board of Trustees shall review the Preliminary Plat application at a scheduled and noticed public hearing. The Board of Trustees shall consider the Planning Commission's recommendations and approve, conditionally approve, or deny the application based on the applicable approval criteria below.

c. Additional Documentation

In its review of the Preliminary Plat the Board of Trustees and/or the Planning Commission may determine that additional maps, reports, certifications, or agreements are necessary before making a decision on the proposal. In such cases either decision making body may require that the additional evidence be submitted before a finding is made.

d. New Application Following Denial

No new application for the same or substantially the same Preliminary Plat shall be accepted by the Director within 1 year of denial of the original application.

2. Step 9 (Approval Criteria)

Applicable, as follows: A Preliminary Plat may be approved only if the Board of Trustees finds that all of the following criteria have been met:

- a. The subdivision is generally consistent with the Town's Comprehensive Plan.
- b. The subdivision is generally consistent with and implements the intent of the specific zoning district in which it is located.
- c. The general layout of lots, streets, driveways, utilities, drainage facilities, and other services within the proposed subdivision is designed to meet the Town's standards related to health and safety and in a way that minimizes the amount of land disturbance, maximizes the amount of open space in the development, preserves existing trees/vegetation and riparian areas, protects critical wildlife habitat, and otherwise accomplishes the purposes and intent of this UDC.
- d. The subdivision complies with all applicable use, development, and design standards set forth in Chapters 3, 5 and 6 of this UDC that have not otherwise been modified or waived pursuant to this Chapter or this UDC. Applicants shall refer to the Development Standards in Chapter 5 of this UDC and shall consider them in the layout of the subdivision in order to avoid creating lots or patterns of lots in the subdivision that will make compliance with such development and design standards difficult or infeasible.
- e. The subdivision complies with all applicable regulations, standards, requirements, or plans of the Federal or State governments and other relevant jurisdictions, including but not limited to wetlands, water quality, erosion control, and wastewater regulations.
- f. The subdivision will not result in significant adverse impacts on the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated.
- g. The subdivision shall be integrated and connected, where appropriate, with adjacent development through street connections, sidewalks, trails, and similar features.
- h. The subdivision will not result in significant adverse impacts on adjacent properties, or such impacts will be substantially mitigated.

- i. Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, and schools are available to serve the subject property, while maintaining sufficient levels of service to existing development.
- j. As applicable, the proposed phasing plan for development of the subdivision is rational in terms of available infrastructure capacity.

3. Lapse

- a. Approval of a Preliminary Plat shall be effective for 1 year from the date of approval. If no development or change in requirements has occurred that would affect the proposed plat at the end of the year of an effective approval, the Board of Trustees may, at the request of the applicant, extend its approval another year without the submission of a new Preliminary Plat. No filing fee is required for such extension. However, no extensions of approval shall be granted more than once.
- b. An approved Preliminary Plat shall lapse and be of no further force and effect if a complete Final Plat application for the subdivision or a phase of the subdivision has not been submitted within any timeframe specified by the Board of Trustees or, if no timeframe was established by the Board, then within 24 months after the approval date. In the case of partial Final Plat submission, the approval of the remaining portion of the Preliminary Plat shall automatically gain an extension of 1 year.

E. Procedure for Review of Final Plats

See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

1. Step 8 (Decision and Findings)

Applicable. The following additional procedures shall apply:

a. *Director's Review and Decision*

The Director shall review each proposed Final Plat application relative to the applicable approval criteria listed below. All construction plans for subdivision-related public improvements shall be referred to the Public Works Director for review and approval. Based on the results of those reviews, the Director shall act to approve, approve with conditions, or deny the proposed Final Plat. If the Director finds that the Final Plat materials do not comply with the applicable requirements of this UDC, the Director may refer it back to the applicant for modification or further study. The Director shall make a final decision on the Final Plat.

b. *Final Plats that Differ from Approved Preliminary Plats*

If the Final Plat is found not to be in substantial compliance with the approved Preliminary Plat, the Director shall refer the application to the Planning Commission, and the Board of Trustees. The Final Plat submittal shall require review and approval in the same manner as the Preliminary Plat (i.e., hearings before the Planning Commission and the Board of Trustees).

c. *Effect of Approval*

i. *Recording*

Following the approval of a Final Plat, which shall have all permitted modifications, waivers, or variances expressly noted thereon, the Final Plat shall be signed by the Mayor or other authorized Town representative. The Town shall then record the Final Plat and any signed subdivision improvements Development Agreement in the office of the appropriate County Clerk and Recorder. The applicant shall pay all required recording fees.

ii. Lapse of Approval

The approved Final Plat documents shall be recorded within 60 days of approval. Upon written request by the applicant or Staff, the Director may grant 1 extension for a maximum of 60 days due to unique circumstances that make it impractical to file the Final Plat documents within 60 days from approval. Final Plat approval shall be null and void and shall automatically lapse if recordation does not occur within the time specified.

d. Improvement Guarantees

The subdivider shall provide any required improvement guarantees to the Town pursuant to the applicable development agreement, and in any case prior to the recording of the Final Plat.

2. Step 9 (Approval Criteria)

Applicable, as follows: The Director shall approve a Final Plat if it meets the following criteria:

- a. The Final Plat is in substantial compliance with all respects of the approved Preliminary Plat and incorporates all recommended changes, modifications, and conditions attached to approval of the Preliminary Plat;
- b. Plans and specifications for improvements connected with development of the subdivision comply with the subdivision development and design standards set forth in Chapter 6 of this UDC, and any other relevant Town, County, State, or Federal regulations, except to the extent modifications, variances, or exceptions have been expressly permitted by the terms of the Preliminary Plat approval. All construction plans for improvements shall be approved by the Public Works Director prior to the Director's action on the Final Plat;
- c. The applicant has either installed all required improvements or has executed a Development Agreement; and
- d. The applicant has paid all applicable fees.

3. Step 11 (Amendments)

- a. A Minor Amendment, by affidavit, to remove lot lines in Old Town shall be required when a building permit is requested for the following structures that would cross existing lot lines:
 - i. New principal building construction;
 - ii. Additions greater than 400 gross square feet; and
 - iii. New accessory building construction over 400 gross square feet.
- b. Applicable, with the additional provisions:

Minor Amendments

The Director may approve Minor Amendments to approved plats, which shall be recorded and shall control over the preceding or Final Plat without vacation of that plat, if the application is signed by the applicants only and the sole purpose of the amending plat is to:

- i. Correct an error in a course or distance shown on the preceding plat;
- ii. Add a course or distance that was omitted on the preceding plat;
- iii. Correct an error in a real property description shown on the preceding plat;
- iv. Indicate monuments set after the death, disability, or retirement from practice of the engineer or surveyor responsible for setting monuments;

- v. Show the location or character of a monument that has been changed in location or character or that is shown incorrectly as to location or character on the preceding plat;
- vi. Correct any other type of scrivener or clerical error or omission previously approved by the municipal authority responsible for approving plats, including lot numbers, acreage, street names, and identification of adjacent recorded plats;
- vii. Correct an error in courses and distances of lot lines between 2 adjacent lots if:
 - (A) Both lot owners join in the application for amending the plat;
 - (B) Neither lot is abolished;
 - (C) The amendment does not attempt to remove recorded covenants or restrictions; and
 - (D) The amendment does not have a material adverse effect on the property rights of the owners in the plat;
- viii. Relocate a lot line to eliminate an inadvertent encroachment of a building or other improvement on a lot line or easement; or
- ix. Relocate or remove 1 or more lot lines between 1 or more adjacent lots if all of the following have been met:
 - (A) The owners of all those lots join in the application for amending the plat;
 - (B) The amendment does not attempt to remove recorded covenants or restrictions; and
 - (C) The amendment does not increase the number of lots.
- x. Vacate lot lines within Old Town by affidavit if the following 2 requirements have been met:
 - (A) All contiguous lots with the same ownership are being vacated.
 - (B) Lots must be combined so that no lot in the same ownership is created as a non-conforming lot, and no existing non-conforming lot remains.

Notice, a public hearing, and the approval of other lot owners shall not be required for the approval and issuance of a Minor Amendment plat. Minor Amendments shall be prepared in the form of an affidavit or, where deemed necessary for clarity, a revised plat certified by a land surveyor licensed with the State of Colorado, and shall be filed with the appropriate County Clerk and Recorder.

4. Lapse

The approved Final Plat documents shall be recorded within 60 days of approval, or the approval shall automatically lapse. The Director may grant 1 extension for a maximum of 60 days due to unique circumstances that make it impractical to file the Final Plat documents within 60 days from approval.

F. Procedure for Review of Minor Subdivisions

1. Applicability

The procedure set forth in this Section shall apply to subdivisions that create 10 or fewer lots in any zoning district. Parcels are eligible for Minor Subdivision only once, and further subdivisions or newly created parcels shall follow Preliminary and Final Plat procedures.

See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

2. Step 8 (Decision and Findings)

Applicable. The following additional procedures shall apply:

a. Director's Review and Decision

The Director shall review each proposed Minor Subdivision relative to the applicable approval criteria listed below. All construction plans for subdivision-related public improvements shall be referred to the Public Works Director for review and approval. Based on the results of those reviews, the Director shall act to approve, approve with conditions, or deny the proposed Minor Subdivision. The Director shall make a final decision on the Minor Subdivision.

3. Step 9 (Approval Criteria)

Applicable, as follows: The Director shall approve a Minor Subdivision application if it meets the following criteria:

- a. The Minor Subdivision is generally consistent with the Town's Comprehensive Plan;
- b. The Minor Subdivision is generally consistent with and implements the intent of the specific zoning district in which it is located;
- c. As applicable, the Minor Subdivision is generally consistent with the terms and conditions of any previously approved development plan;
- d. The Minor Subdivision complies with all applicable use, development, and design standards set forth in this UDC; and
- e. Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, and schools are available to serve the subject property, while maintaining sufficient levels of service to existing development.

4. Lapse

Minor Subdivisions shall be recorded within 60 days of approval by the Director. Upon written request by the applicant, the Director, for good cause, may extend the period, 1 time, for a period not to exceed 60 days due to unique circumstances that make it impractical to file the Minor Subdivision documents within 60 days from approval. Minor Subdivision approval shall be null and void and shall automatically lapse if recordation does not occur within the time specified.

G. Procedure for Review of Annexation Subdivisions:

1. The procedure set forth in this subsection shall apply to subdivision plats submitted in connection with applications for annexation and initial zoning
2. See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

3. **Step 8 (Decision and Findings):** Applicable. The following additional procedures shall apply:
 - a. The Director shall review the proposed Annexation Subdivision relative to the applicable approval criteria listed below, and shall then act to approve, approve with conditions, or deny the proposed Annexation Subdivision; provided, however, the Director's final approval of the Annexation Subdivision shall be subject to the condition precedent that the Board of Trustees take final action approving and adopting an ordinance annexing the subject property.
 - b. Effect of Approval: Recording: The approved Annexation Subdivision Plat shall be recorded within sixty (60) days of approval. Upon written request by the applicant or staff, the Director may grant one extension for a maximum of sixty (60) days due to unique circumstances that make it impractical to file the Annexation Subdivision Plat within sixty (60) days from approval. Annexation Subdivision Plat approval shall be null and void and shall automatically lapse if recordation does not occur within the time specified.

4. **Step 9 (Approval Criteria):** Applicable, as follows: The Director shall approve an Annexation Subdivision application if it meets the following criteria:
 - a. The Annexation Subdivision is consistent with the Town's Comprehensive Plan;
 - b. The Annexation Subdivision is consistent with and implements the intent of the Unified Development Code; and
 - c. Zone district designations do not cross boundary lines of subdivided lots, parcels or tracts.

10.7.8 MINOR MODIFICATIONS

A. Purpose and Scope

This Section sets forth the required review and approval procedures for “Minor Modifications,” which are minor deviations from otherwise applicable standards that may be approved by the Director, the Board of Trustees, or the Planning Commission. Minor Modifications are to be used when the minor deviation of the applicable standard, and the unlikelihood of any adverse effects on nearby properties or the neighborhood, make it unnecessary to complete a formal Variance process.

B. Applicability

1. Minor Modifications to General Development and Zone District Standards

As part of the review and approval of any procedure set forth in this Chapter, the Board of Trustees, the Planning Commission, or the Director may approve Minor Modifications of up to a maximum of 10 percent from the following general development and zone district standards, including Planned Development (PD) District standards, provided that the applicable approval criteria are met.

- a. Minimum lot area requirements;
- b. Setback requirements;
- c. Subdivision design and improvement standards set forth in Chapter 5; and
- d. Quantitative development standards set forth in Chapter 6 (e.g., number of parking spaces);

2. Exceptions

No Minor Modification shall result in:

- a. An increase in overall project density;
- b. A change in permitted uses or mix of uses;
- c. An increase in building height;
- d. A deviation from the use-specific standards; or
- e. A change in conditions attached to the approval of any Plat, Site Plan, or Special Review Use.

C. Procedure

1. Approval by Director

The Director may approve a Minor Modification at any time before taking action on a development application if the Director is the final decision-maker.

2. Approval by Board of Trustees or Planning Commission

The Board of Trustees or Planning Commission may approve a Minor Modification at any time before it takes action on a development application under its respective jurisdiction.

D. Approval Criteria

The decision-making body may approve the Minor Modification only if it finds that the modification meets all of the criteria below:

1. The requested modification is generally consistent with the Town’s Comprehensive Plan and the stated purpose of this UDC;
2. The requested modification meets all other applicable building and safety codes;
3. The requested modification does not encroach into a recorded easement;

4. The requested modification will have no significant adverse impact on the health, safety, or general welfare of surrounding property owners or the general public, or such impacts will be substantially mitigated; and
5. The requested modification is necessary to either: (a) compensate for some practical difficulty or some unusual aspect of the site of the proposed development not shared by landowners in general; or (b) accommodate an alternative or innovative design practice that achieves to the same or better degree the objective of the existing design standard to be modified. In determining if “practical difficulty” exists, the approval criteria for Variances in Section 7.9, shall be considered.

10.7.9 VARIANCES

A. Purpose and Scope

The Variance process is intended to provide limited relief from the requirements of this UDC in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of land in a manner otherwise permitted under this UDC. It is not intended that Variances be granted merely to remove inconveniences or financial burdens that the requirements of this UDC may impose on property owners in general..

B. Procedure

See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

1. Step 8 (Decision and Findings)

Applicable. The following additional procedures shall apply:

a. Board of Adjustment Review and Decision

- i. The Board of Adjustment shall hold a public hearing on the proposed Variance.
- ii. In considering the application, the Board of Adjustment shall review the application materials, the applicable approval criteria below, and all testimony and evidence received at the public hearing.
- iii. After conducting the public hearing, the Board of Adjustment may: deny; approve or approve with conditions the requested Variance. Any approval or denial of the request shall be by resolution, accompanied by written findings of fact. A concurring vote of a majority of those present shall be required to grant a Variance.

2. Step 9 (Approval Criteria)

Applicable, as follows:

- a. The Board of Adjustment may approve a Variance only if it finds that all of the criteria below have been met:
 - i. There are unique physical circumstances or conditions, such as irregularity, narrowness or shallowness of lot, or exceptional topographical or other physical conditions peculiar to the affected property;
 - ii. The unusual circumstances or conditions do not exist throughout the neighborhood or district in which the property is located;
 - iii. Such physical circumstances or conditions were not created by the applicant;
 - iv. Because of such physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of this UDC;

- v. The Variance will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property; and
 - vi. The Variance is the minimum Variance that will afford relief and is the least modification possible of the provisions of this UDC which are in question.
- b. No Variance shall be granted that violates the intent of this UDC.
 - c. No Variance shall be granted from any written conditions attached by another decision-making body to the approval of a Special Review Use, Plat or Site Plan.
 - d. No Variance may authorize a use other than those permitted in the district for which the Variance is sought.
- 3. Lapse**
Any Variance shall become null and void:
- a. If the Variance is not exercised within 180 days of the date it is granted, or
 - b. If any building, structure, or characteristic of use permitted by the Variance is moved or altered so as to enlarge the Variance or discontinue it.

10.7.10 SITE PLAN

A. Purpose

The purpose of the Site Plan process is to ensure compliance with this UDC, and to encourage quality development reflective of the goals, policies, and objectives of the Town's Comprehensive Plan.

B. Applicability

A Site Plan can be reviewed concurrently with a Final Plat application or other applications as may be necessary.

1. Site Plan review shall be required for:
 - a. All new development (not including additions);
 - b. Any change of use from 1 primary use classification to another (for example, residential use to commercial use);
 - c. An increase of the number of stories for a building on a lot;
 - d. An increase of the combined gross floor area of a building of more than 10 percent or 5,000 square feet, whichever is less; and
 - e. An increase in the non-permeable lot coverage by more than 2,000 square feet.
2. Site Plan review shall not be required for:
 - a. A single-family or duplex use and associated accessory structures on an approved lot; and
 - b. Public parks and open space.

C. Types of Site Plan Review

1. Administrative Review

The following types of projects may be approved by the Director using the administrative Site Plan approval process:

- a. A single use proposed in a structure that is less than 25,000 square feet in building size for that use, not including a single-family detached or duplex dwelling unit;

- b. A combination of uses proposed in a single structure, such as a shopping center, that is less than 25,000 square feet in building size, not including a single-family detached or duplex dwelling unit; and
- c. Multiple buildings proposed where the combined total of all structures will not exceed 25,000 square feet in building size, not including single-family detached or duplex dwelling units on lots larger than 5,000 square feet.

2. Planning Commission Review

The following types of projects shall require Site Plan review by the Planning Commission:

- a. Any development that exceeds the size threshold for administrative Site Plan approval; and
- b. Any administrative Site Plan referred to the Planning Commission by the Director.

3. Review of Site Plan with Subdivision

At the option of the applicant, a Subdivision application may be submitted concurrent with a Site Plan application for the following types of projects:

- a. Property in Old Town in which the Site Plan includes more than 1 legal lot;
- b. A Site Plan on property that does not have a legal building lot platted within the Town; and
- c. A Site Plan on property that is identified by the Town as needing to dedicate easements, right-of-way, or property dedication.

D. Coordination with Special Review Uses

If review of a Special Review Use is required, then the applicant shall file a Special Review Use application concurrent with the Site Plan application. In such cases, the Board of Trustees shall be the final decision-maker for both the Site Plan and the Special Review Use, and shall render separate decisions on both applications based on the applicable approval criteria for the Special Review Use and this Section.

E. Procedure for Administrative Site Plan Review

See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

1. Step 8 (Decision and Findings)

Applicable. The following additional procedures shall apply:

a. Director's Review and Decision

The Director shall review each Site Plan applying the approval criteria listed below and shall act to approve, approve with conditions, deny, or defer the decision to the Planning Commission.

b. Referral to Planning Commission

The Director may refer any application involving any requested deviation, modification, or exception from the requirements of this UDC, or any application that in the Director's discretion presents issues that require Planning Commission attention, to the Planning Commission.

2. Step 9 (Approval Criteria)

Applicable, as follows: An administrative Site Plan may be approved upon a finding that the application meets all of the following criteria:

- a. The Site Plan is generally consistent with the Town's Comprehensive Plan;
- b. The Site Plan is generally consistent with any previously approved subdivision plat, planned development, or other land use approval;

- c. The Site Plan complies with all applicable development and design standards set forth in this UDC;
- d. Any significant adverse impacts reasonably anticipated to result from the use will be mitigated or offset to the maximum extent reasonably practicable; and
- e. The development proposed on the Site Plan and its general location is or will be compatible with the character of surrounding land uses.

3. Step 11 (Amendments)

Applicable, as follows: Proposed changes to an approved Site Plan that meet the Applicability requirements in Subsection 7.10.B.1 shall be submitted as a new Site Plan application and shall not qualify as an Amendment application.

Any proposed changes to an approved Site Plan shall require a new Site Plan application approval or an Amendment to the Site Plan application approval before construction.

Applicable, with the following addition:

a. *Examples of Minor Amendments*

The following amendments are offered as examples of amendments to approved Site Plans that the Director may reasonably determine to be "minor":

- i. Insubstantial changes to the text to add clarity or correct conflicting provisions.
- ii. Changes in street alignment (subject to plat approval or right-of-way vacation), drives, and parking if such changes further the intent of the Site Plan and this UDC, and are acceptable to the Public Works Director.
- iii. Changes in building height, setback, and similar provisions of 10 percent or less, provided that the underlying zone district dimensional standards are met.
- iv. Minor changes in building materials, landscaping, sign placement, lighting fixtures, etc. to further the intent of the Site Plan and this UDC.

4. Lapse

The approved Site Plan documents shall be submitted to the Town within 60 days of approval. Upon written request by the applicant or staff, the Director may grant 1 extension for a maximum of 60 days due to unique circumstances that make it impractical to submit the Site Plan documents within 60 days from approval. Site Plan approval shall be null and void and shall automatically lapse if submittal does not occur within the time specified.

a. *Special Conditions: Phasing and Expiration of Approval*

- i. The Site Plan shall be effective for a period of 3 years from the date of approval, unless stated otherwise in such approval.
- ii. The Director may grant a 1-time extension, of not more than 6 months, upon a written request by the applicant, prior to the expiration of the Site Plan.

F. Procedure for Planning Commission Site Plan Review

See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

1. Step 8 (Decision and Findings)

Applicable. The following additional procedures shall apply:

a. *Planning Commission Review, Hearing, and Decision*

The Planning Commission shall hold a public hearing on the proposed Site Plan application and approve, approve with conditions, or deny the proposed Site Plan, based on the applicable approval criteria below.

b. Appeals to Board of Trustees

- i. An appeal of a decision of the Planning Commission shall be filed in writing with the Director not more than 7 days after the action taken by the Planning Commission. The Director shall notify the Town Clerk that such appeal request has been made. The appeal shall state all reasons for dissatisfaction with the action of the Planning Commission.
- ii. Within 30 days of the filing of a notice of appeal, the Board of Trustees shall hold a public hearing on the appeal. The appeal shall be de novo. The Board of Trustees may affirm or reverse the decision of the Planning Commission, and the Board's decision shall be final, subject only to judicial review.
- iii. In cases where Site Plan approval includes provisions that must be approved by the Board of Trustees, Planning Commission approval of the Site Plan shall be referred to the Board of Trustees for this action.

c. Board of Trustees Review, Hearing and Decision

The Board of Trustees shall hold a public hearing on the proposed Site Plan application and approve, approve with conditions, or deny the proposed Site Plan, based on the applicable approval criteria below.

2. Step 9 (Approval Criteria)

Applicable, as follows: A Site Plan may be approved upon a finding that the application meets all of the following criteria:

- a. The Site Plan is generally consistent with the Town's Comprehensive Plan;
- b. The Site Plan is generally consistent with any previously approved subdivision plat, or other land use approval;
- c. The Site Plan complies with all applicable development and design standards set forth in this UDC, including but not limited to the provisions in Chapter 2, Chapter 3, Chapter 4, and Chapter 6;
- d. Any significant adverse impacts reasonably anticipated to result from the use will be mitigated or offset to the maximum extent reasonably practicable; and
- e. The development proposed on the Site Plan and its general location is or will be compatible with the character of surrounding land uses.

3. Step 11 (Amendments)

Applicable, with the following modification:

a. Examples of Minor Amendments

The following amendments are offered as examples of amendments to approved Site Plans that the Director may reasonably determine to be "minor", and approve:

- i. Insubstantial changes to the text to add clarity or correct conflicting provisions.
- ii. Changes in street alignment (subject to plat approval) if such changes further the intent of the Site Plan and this UDC, and are acceptable to the Public Works Director.
- iii. Changes in building envelope, setback, and similar provisions of 10 percent or less, provided that the underlying zone district dimensional standards are met.
- iv. Changes in landscaping, sign placement, lighting fixtures, etc. to further the intent of the Site Plan and this UDC.

4. Lapse

The approved Site Plan documents shall be submitted to the Town within 60 days of approval. Upon written request by the applicant or staff, the Director may grant 1 extension for a maximum of 60 days due to unique circumstances that make it impractical to submit the Site Plan documents within 60 days from approval. Site Plan approval shall be null and void and shall automatically lapse if submittal does not occur within the time specified.

a. *Special Conditions: Phasing and Expiration of Approval*

- i. The Site Plan shall be effective for a period of 3 years from the date of approval, unless stated otherwise in such approval.
- ii. The Director may grant a 1-time extension, of not more than 6 months, upon a written request by the applicant, prior to the expiration of the Site Plan.

10.7.11 SPECIAL REVIEW USE

A. Purpose

This Section provides a discretionary approval process for Special Review Uses, which have unique or widely varying operating characteristics or unusual site development features. The procedure encourages public review and evaluation of a use's operating characteristics and site development features and is intended to ensure that proposed Special Review Uses will not have a significant adverse impact on surrounding uses or on the community at large.

B. Relationship to Site Plan Requirements

1. Coordination with Review of Site Plans

If a Site Plan is necessary for the proposed Special Review Use, then the Site Plan and the Special Review Use applications shall be processed concurrently. In such cases, the Board of Trustees shall be the final decision-making entity for both the Site Plan and the Special Review Use.

C. Procedure

See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

1. Step 8 (Decision and Findings)

Applicable. The following additional procedures shall apply:

a. *Planning Commission's Review and Recommendation*

The Planning Commission shall hold a public hearing on the proposed Special Review Use, and shall recommend that the Board of Trustees approve, approve with modifications or conditions, or deny the application, based on the applicable approval criteria below.

b. *Board of Trustees Review and Action*

The Board of Trustees shall review the Special Review Use application at a scheduled and noticed public hearing. The Board shall consider the Planning Commission's recommendations and approve, conditionally approve, or deny the application, request that the application be further reviewed by the Planning Commission, or table the application for further review, based on the applicable approval criteria below.

c. *Indication on Zoning Map*

A zoning change to the zoning map is not required for Special Review Uses.

d. Alterations of Approved Uses

No approved Special Review Use may be modified, physically expanded, hours of operation extended, or otherwise altered unless amended in accordance with the procedures applicable to initial approval of a Special Review Use as set out in this UDC.

2. Step 9 (Approval Criteria)

Applicable, as follows: A Special Review Use may be approved only if the Board of Trustees finds that all of the following criteria have been met:

- a. The proposed use is generally consistent with the Town's Comprehensive Plan and all applicable provisions of this UDC and applicable State and Federal regulations;
- b. The proposed use is generally consistent with the purpose and intent of the zoning district in which it is located;
- c. The proposed use is generally consistent with any applicable use-specific standards set forth in Section 3.2;
- d. The proposed use is compatible with adjacent uses in terms of scale, site design, and operating characteristics (hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts);
- e. Any significant adverse impacts anticipated to result from the use will be mitigated or offset to the maximum extent reasonably practicable;
- f. Facilities and services (including sewage and waste disposal, water, gas, election, police and fire protection, and streets and transportation, as applicable) will be available to serve the subject property while maintaining adequate levels of service for existing development;
- g. Adequate assurances of continuing maintenance have been provided; and
- h. Any significant adverse impacts on the natural environment will be mitigated to the maximum extent reasonably practicable.

3. Lapse

a. Lapse of Special Review Use Approval Upon Site Plan Expiration

- i. If a Site Plan is necessary for the proposed Special Review Use, the approval of the Special Review Use shall be conditioned on the approval of the Site Plan. Accordingly, the approval of any Special Review Use shall lapse and become null and void upon the expiration of the approved Site Plan, unless otherwise restricted by the Town.
- ii. If a Special Review Use is not in operation within 1 year after a building permit is issued or within the timeframe established as a Condition of Approval of the Special Review Use, the Special Review Use Approval shall be revoked by the Director. The owner shall be notified of any revocation in writing.

b. Lapse of Special Review Use Approval without Site Plan

If a Special Review Use is not in operation within 1 year after the date of its approval or within the timeframe established as a Condition of Approval of the Special Review Use, its approval shall be revoked by the Director. The owner shall be notified of any revocation in writing.

D. Non-Compliance of Special Review Uses after Approval

In the event of noncompliance by the applicant with the approved Special Review Use plan, written agreement, development schedule, or any conditions of approval, the Board of Trustees may revoke the Special Review Use or amend the original approval.

E. Approved Special Review Uses Existing Prior to Effective Date of this UDC

Any approved Special Review Use that existed prior to the effective date of this UDC shall continue to be an approved Special Review Use.

10.7.12 ARCHITECTURAL REVIEW

A. Purpose

The purpose of the Architectural review process is to ensure compliance with the Development Design Standards and provisions of this UDC, and to encourage quality development reflective of the goals, policies, and objectives of the Town's Comprehensive Plan. Structures requiring Architectural review may only be issued a building permit after architectural plans have been approved.

B. Applicability

Architectural review and approval of new single family detached and duplex dwelling units will typically be conducted after Final Plat approval. Architectural review does not apply to structures reviewed and approved through a Site Plan Review process.

C. Procedure

See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

1. Step 8 (Decision and Findings)

Applicable. The following additional procedures shall apply:

a. Director's Review and Decision

The Director shall review each administrative Architectural review application relative to the approval criteria listed below and shall act to approve, approve with conditions, deny, or defer the decision to the Planning Commission.

b. Referral to Planning Commission

The Director may refer any application involving any requested deviation, modification, or exception from the requirements of this UDC, or any application that in the Director's discretion presents issues that require Planning Commission attention, to the Planning Commission. The applicant shall state all reasons for requesting any deviation, modification, or exception from the rules, requirements, and regulations of this UDC.

c. Appeal to the Board of Trustees

Appeals of decisions made by the Director or Planning Commission under this Section shall be made to the Board of Trustees.

2. Step 9 (Approval Criteria)

Applicable, as follows: An Architectural review may be approved upon a finding that the application meets all of the following criteria:

a. The Architecture is generally consistent with the Town's Comprehensive Plan;

b. The Architecture is generally consistent with any previously approved Architecture during the subdivision plat, Site Plan, or any other precedent plan or approval as applicable;

- c. The Architecture complies with all applicable development and design standards set forth in this UDC, including but not limited to the provisions in Chapter 6;
- d. Any significant adverse impacts reasonably anticipated to result from the use will be mitigated or offset to the maximum extent reasonably practicable; and
- e. The Architecture proposed will be compatible with the character of surrounding land uses.

3. Lapse

a. *Special Conditions: Expiration of Approval*

- i. The Architectural approval shall be effective for a period of 3 years from the date of approval, unless stated otherwise in such approval. This is for all Architectural approvals whether approved as part of a Subdivision or as a separate review and approval process. Building permits shall not be issued based on Architectural Plans that have an approval date more than 3 years old.
- ii. The Director may grant a 1-time extension, of not more than 6 months, upon a written request by the applicant, prior to the expiration of the Architectural Plans. Failure by the applicant to request a time extension prior to the expiration of the Architectural Plans shall render the Architectural Plans null and void. The submittal of revised Architectural Plans and fees shall be required to obtain a building permit after the Plans have lapsed. The revised plans shall meet the current Town standards.

10.7.13 BUILDING PERMITS

A. Building Permits

Building permits shall not be issued for any development that is not in conformance with this Code. Approval of construction drawings by the Public Works Director shall be required prior to issuance of building permits.

10.7.14 TEMPORARY USE PERMIT

A. Applicability

No use that is classified as a Temporary Use in the zone district in which it is to be located shall be placed or established on the property without first receiving a temporary use permit.

B. Procedure

See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.



1. Step 9 (Approval Criteria)

Applicable, as follows: The Director shall issue a Temporary Use permit only upon finding that the proposed Temporary Use satisfies the requirements set forth in Section 3.3.

2. Lapse

The Temporary Use permit shall lapse and be null and void upon expiration of the time limit specified in the permit.

10.7.15 DEVELOPMENT AGREEMENT

A. Purpose

Development Agreements are contracts between an applicant and the Town. Development Agreements are required with a subdivision when public improvements and private improvements of public interest are identified during review of the application.

B. Contents

The Town has a standard Development Agreement format that is to be used.

10.7.16 SITE PLAN AGREEMENT

A. Purpose

Site Plan Agreements are contracts between an applicant and the Town. Site Plan Agreements are typically required with a Site Plan application when public improvements and private improvements of public interest are identified during review of the application.

B. Contents

The Town has a standard Site Plan agreement format that is to be used.

10.7.17 IMPROVEMENT GUARANTEES

A. Guarantee Required

To ensure the installation of required public improvements, at the time the Final Plat or Site Plan is filed, a Development Agreement shall require the Developer to guarantee the completion of all such improvements by 1 or more of the methods specified in this Section. The means of a guarantee may be changed during the guarantee period through a written modification of the agreement only with the Director's approval. The amount of the guarantee shall be determined on the basis of the Developer's cost estimate as accepted by the Town. The guarantee shall remain in effect until final acceptance of improvements.

B. Cost Estimate; Overrun Allowance

The engineer's cost estimate shall state the estimated cost of completion for each required public improvement. Cost estimates for each required public improvement must be approved by the Town. The guarantee of completion of public improvements shall include a 15 percent overrun allowance.

C. Methods

The Development Agreement shall include 1 or more of the following methods to guarantee the construction of required public improvements:

1. Deposit in Escrow

The Developer may elect to deposit a cash sum equal to the guarantee as required herein. In the case of an escrow account, the Developer shall file with the Town an escrow agreement in a form approved by the Town Attorney, that includes the following terms:

- a. Funds of the escrow account shall be held in trust until released by the Town and may not be used or pledged by the Developer as security in any matter during that period other than payment for the improvements.
- b. In the case of a failure on the part of the Developer to complete any improvement within the required time period, the funds in such account shall be used by the Town for the completion or partial completion of those improvements.

2. Letter of Credit

The Developer may elect to provide from a bank or other responsible financial institution authorized to do such business in the state an irrevocable letter of credit in a form acceptable to the Town Attorney. Such letter shall be filed with the Town and shall certify the following:

- a. That the creditor irrevocably guarantees funds in an amount equal to the estimated cost of all required public improvements plus overrun allowances as provided herein for the completion of all such improvements.
 - b. That in the case of failure on the part of the Developer to complete any specified improvements within the required time period the Town may immediately and without further action draw upon the letter of credit as necessary to finance the completion or partial completion of those improvements.
3. If any portion of the development governed by the development agreement is being funded by the Town or the Town of Erie Urban Renewal Authority, the Town may, in the Town's sole discretion and subject to approval by the Town Attorney, accept other forms of improvement guarantees, including without limitation performance bonds, warranty bonds and pledges of bond proceeds.

D. Improvement Warranty

1. Time Period

The Developer shall warrant and guarantee that required public improvements constructed under the agreement will remain in good condition and meet operating specifications for 2 years, commencing with construction acceptance of each public improvement when it is completed. Such warranty includes defects in design, workmanship, materials, and any damage to improvements caused by the Developer, his agents or others engaged in work to be performed under the subdivision agreement.

2. To secure the warranty

- a. The performance guarantee shall remain in effect until the end of the warranty period.
- b. The performance guarantee shall be reduced to 25 percent of the original Development Agreement for the warranty period.

E. Release of Guarantee

An inspection will be made by the Town at the end of the warranty period and prior to the release of guarantees. All deficiencies shall be corrected prior to release of the guarantee.

10.7.18 APPEALS

A. Appeals of Administrative Decisions

1. Purpose and Scope

Appeals to the Board of Adjustment from the decisions of the Town's staff are permitted under this UDC.

2. Decisions That May Be Appealed

An asserted error in any order, requirement, permit, decision, determination, refusal, or interpretation made by the Director in interpreting or enforcing the provisions of this UDC may be appealed to the Board of Adjustment, unless otherwise provided in this UDC.

3. Filing of Appeal; Effect of Filing

- a. An appeal to the Board of Adjustment may be brought by any person, firm, corporation, office, department, board, bureau, or commission aggrieved by an order, requirement, permit, decision, or determination of the Director.

- b. An application for an appeal shall be filed with the Director. Once the application is determined to be complete, the Director shall schedule the appeal for consideration at a public hearing before the Board of Adjustment. The Director shall transmit to the Board of Adjustment all applications and other records pertaining to such appeal. The application shall be filed no later than 30 days after the date of the contested action.
- c. The filing of an appeal shall stay all proceedings in furtherance of the contested action, unless the Director certifies to the Board of Adjustment that, by reason of facts stated in the certification, such a stay would cause imminent peril to life and property.

4. Action by the Board of Adjustment

- a. Upon receiving the application materials from the Director, the Board of Adjustment shall hold a public hearing on the appeal.
- b. At the hearing, the Board of Adjustment shall adopt a resolution reversing, affirming, or modifying the contested action. In reversing, affirming, or modifying the contested action.
- c. The Board of Adjustment shall not reverse or modify the contested action unless it finds that Town staff erred in the application or interpretation of the terms of this UDC or related policies adopted by the Town.
- d. The Board of Adjustment shall not reverse or modify the contested action unless there is a concurring vote of at least 4 members.

5. Effect of Reversal or Modification

In the event that the Board of Adjustment reverses or modifies the contested action, all subsequent actions taken by Town staff with regard to the subject matter shall be in accordance with the reversal or modification granted by the Board of Adjustment.

B. Appeal from Board of Adjustment or Board of Trustees

- 1. Appeals from decisions made by the Board of Adjustment or the Board of Trustees based upon this UDC shall be to the courts in accordance with C.R.C.P 106 (a) (4).

10.7.19 PLANNED DEVELOPMENT (PD) ZONING

A. Purpose

- 1. This Section makes available, pursuant to the Planned Unit Development Act of 1972, Article 67 of Title 24, C.R.S., a procedure to modify specific regulations of the UDC within a Planned Development (PD) zone district at the time of initial zoning for annexation or as a rezoning of a property from another zone district.
- 2. The PD zone district may be used when:
 - a. There is a special public benefit that does not coincide with standard zoning district requirements;
 - b. A development proposal is unable to meet the standard zoning district requirements due to physical constraints of the property;
 - c. A development proposal is unable to meet the standard zoning district requirements due to unique development design; or,
 - d. A development proposal is unable to meet the standard zoning district requirements due to a unique mix of land uses.

3. The PD zone district is not a general waiver of the UDC regulations. PD zone district modifications to the UDC regulations are to be based on creative and innovative design and amenities incorporated in the PD zone district that could not otherwise be achieved through other standard zone districts or through another modification process such as Alternative Equivalent Compliance.
4. PD zone district modifications shall be generally consistent with the overall land uses and objectives of the Town's Comprehensive Plan, Transportation Master Plan; Parks, Recreation, Open Space, and Trails Master Plan, and other pertinent Town plan and policy documents.
5. The flexibility permitted in a PD zone district shall be made in exchange for greater public benefits that would not have otherwise been achieved through development under another zone district.

B. Applicability

1. General

- a. The procedures of this Section, shall apply to all PD zone district applications.
- b. There shall be no minimum or maximum size required for a PD zone district.
- c. The PD zoning district specific regulations shall be outlined in a Planned Development–Development Plan ("PD-DP"). The PD-DP shall comprehensively detail the layout and design of the entire PD zone district in order to show conformance with the purpose of the PD zone district; to illustrate where and how modification of specific UDC regulations will occur; and to delineate where and how a greater public benefit has been provided.
- d. The PD-DP may propose modifications to any Section of the UDC.
- e. The provisions of the PD-DP shall govern the development within the PD zone district provided, however, that where the provisions of the PD-DP do not address a particular subject, the relevant provisions of the UDC, as amended, or any other applicable ordinance or regulation of the Town shall be applicable.

C. Procedure for Review

See Table 7.1, Section 10.7.2, and the User Guide for applicable review procedure and submittal requirements.

1. Step 8: (Decision and Findings)

Applicable, the following additional procedures shall apply:

- a. ***Planning Commission Review and Recommendation***
The Planning Commission shall hold a Public Hearing on the application. The Planning Commission shall recommend to the Board of Trustees approval, approval with conditions, or denial. The Director shall forward the recommendation to the Board of Trustees.
- b. ***Board of Trustees Action***
The Board of Trustees shall hold a Public Hearing on the application and shall approve, approve with conditions, or deny the application.
- c. ***Official Zoning Map***
A PD-DP approved in accordance with the provisions of this Section shall be referenced on the Official Zoning Map.
- d. ***Recording of Decision***
Following approval, the Town shall record the PD-DP in the office of the appropriate County Clerk and Recorder. The applicant shall be responsible for all required recording fees.

e. *Successive Applications*

Following denial of a PD zone district application, no new application for the same or substantially the same PD zone district shall be accepted within 1 year of the date of denial.

2. Step 9: (Approval Criteria)

Applicable, the Planning Commission and Board of Trustees shall review the PD zone district application considering the following approval criteria:

- a. The PD district zoning is generally consistent with the purpose of the PD zone district as set forth in UDC Sections 2.5 and 7.6.
- b. The modification to the UDC regulations is based on creative and innovative design and amenities incorporated in the PD zone district that could not otherwise be achieved through other standard zone districts or through another modification processes such as Alternative Equivalent Compliance in UDC Subsection 6.1.C.
- c. The PD zone district will promote the public health, safety, and general welfare.
- d. The PD zone district is generally consistent with the Town's Comprehensive Plan; Transportation Master Plan; Parks, Recreation, Open Space, and Trails Master Plan, and other pertinent Town plan and policy documents.
- e. Adequate and sufficient public safety, utility facilities and services, recreation facilities, parks, open space, and schools are available to serve the property, while maintaining sufficient levels of service to existing development.
- f. The PD zone district provides adequate vehicular circulation and parking facilities in terms of traffic volumes, convenience, safety, access, screening and noise.
- g. A pedestrian and bicycle circulation system that provides connections to adjacent properties, existing and future trails, parks, open space, recreational facilities, schools, and other places of public gathering.
- h. The PD zone district is not likely to result in significant adverse impacts to the natural environment, and significant scenic and historic features.
- i. The PD zone district will not result in significant adverse impacts on properties in the vicinity of the PD zone district, or such impacts will be substantially mitigated.
- j. Proposed uses will be compatible in scale with uses on properties in the vicinity of the PD zone district.
- k. The residential areas of a PD zone district allocate a variety of housing types and densities appropriate to the size of the residential development area.
- l. Visual relief is provided through building placement, shortened or interrupted street vistas, visual access to open space, parks, and other design methods.
- m. The modifications permitted in the PD zone district have been made in exchange for greater public benefits that would not have otherwise be achieved through development under another zone district.

3. Step 11: (Amendments)

Applicable, as follows: Amendments shall be reviewed and processed in the same manner as required for the original application for which amendment is sought. Amendments shall be recorded in accordance with the procedures established for the initial approval.